

Forty-ninth Legislature
First Regular Session

COMMITTEE ON COMMERCE

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2198

(Reference to printed bill)

- 1 Page 1, line 4, after "Settlement" insert "and release"
2 Line 5, after "SETTLE" insert "AND RELEASE"
3 Line 7, after the first "SETTLEMENT" insert "AND RELEASE"
4 Line 8, after "SETTLEMENT" insert "AND RELEASE"
5 Line 12, after the period insert "THE PARTIES MAY NOT ENTER INTO A FULL AND
6 FINAL SETTLEMENT AND RELEASE OF A CLAIM UNTIL THE PERIOD OF DISABILITY IS
7 TERMINATED BY THE EMPLOYER OR CARRIER BY A NOTICE OF CLAIM STATUS THAT IS
8 SUPPORTED BY COMPETENT MEDICAL ADVICE THAT THE EMPLOYEE'S CONDITION IS STABLE
9 AND ADDITIONAL TREATMENT WILL NOT IMPROVE THE EMPLOYEE'S CONDITION."
10 Line 17, after the comma insert "THE EMPLOYEE MUST BE REPRESENTED BY AN ATTORNEY
11 WHETHER OR NOT THE EMPLOYEE IS ALSO REPRESENTED BY A GUARDIAN OR TRUSTEE."
12 Strike lines 34 through 42, insert:
13 "C. IF THE AGREEMENT IS A FULL AND FINAL SETTLEMENT AND THE SETTLEMENT
14 INCLUDES A RELEASE OF LIABILITY OF UNDISPUTED MEDICAL, SURGICAL AND HOSPITAL
15 BENEFITS, ALL OF THE FOLLOWING SHALL BE MET BEFORE THE AGREEMENT IS APPROVED:
16 1. THE CARRIER OR EMPLOYER SHALL SUBMIT FOR REVIEW BY THE EMPLOYEE AND
17 THE COMMISSION A SUMMARY OF ALL REASONABLY ANTICIPATED FUTURE MEDICAL,
18 SURGICAL AND HOSPITAL BENEFITS RELATED TO THE CLAIM AND THE PROJECTED COST OF
19 THE BENEFITS.
20 2. IF THE SETTLEMENT AND RELEASE OF FUTURE MEDICAL, SURGICAL AND
21 HOSPITAL BENEFITS EXCEED TWENTY-FIVE THOUSAND DOLLARS, THE TOTAL AMOUNT OF
22 MONIES THAT REPRESENT THE NECESSARY AMOUNTS TO COVER FUTURE MEDICAL, SURGICAL
23 AND HOSPITAL EXPENSES THAT ARE RELATED TO THE INDUSTRIAL INJURY SHALL BE
24 PLACED IN A SEPARATE INTEREST BEARING ACCOUNT THAT IS INSURED BY THE FEDERAL
25 DEPOSIT INSURANCE CORPORATION AND THAT IS IN THE FORM OF AN ANNUITY OR A
26 CUSTODIAL OR PROFESSIONALLY ADMINISTERED ACCOUNT. THE MONIES IN THE ACCOUNT,
27 INCLUDING ANY INTEREST AND PAYMENTS THAT ARE MADE FROM THE ACCOUNT, SHALL BE
28 USED SOLELY FOR MEDICAL, SURGICAL AND HOSPITAL EXPENSES THAT ARE INCURRED FOR
29 THOSE MEDICAL NEEDS AND THAT ARE RELATED TO THE WORK RELATED INJURY. THE
30 EMPLOYER OR CARRIER SHALL PAY ANY FEES OR COSTS THAT ARE ASSOCIATED WITH THE
31 ESTABLISHMENT OF THE ACCOUNT AND THESE FEES OR COSTS SHALL NOT BE INCLUDED AS

1 PART OF THE SETTLEMENT AMOUNT.

2 3. IF A SETTLEMENT OR RELEASE OF FUTURE MEDICAL, SURGICAL AND HOSPITAL
3 BENEFITS IS SUBJECT TO A MEDICARE WORKERS' COMPENSATION SET ASIDE ARRANGEMENT
4 UNDER FEDERAL LAW, THE SETTLEMENT PROPOSAL THAT IS PRESENTED FOR APPROVAL TO
5 THE CENTER FOR MEDICARE AND MEDICAID SERVICES SHALL BE SUBMITTED TO THE
6 COMMISSION ALONG WITH THE AGREEMENT."

7 Reletter to conform

8 Page 2, line 4, strike "WAIVED" insert "SETTLED OR RELEASED"

9 Line 5, after "AGREEMENT" insert "AND THAT THE AGREEMENT COMPLIES WITH THIS
10 SECTION"

11 Line 6, strike "D."

12 After line 7, insert:

13 "E. ANY ATTORNEY FEES FOR SERVICES THAT ARE RENDERED IN NEGOTIATING
14 AND REPRESENTING THE EMPLOYEE IN A FULL AND FINAL SETTLEMENT SHALL BE LIMITED
15 TO TWENTY-FIVE PER CENT OF THE AMOUNT THAT REPRESENTS THE COMPENSATION FOR
16 LOSS OF EARNING CAPACITY. ATTORNEY FEES FOR NEGOTIATING AND REPRESENTING THE
17 EMPLOYEE IN THE FULL AND FINAL SETTLEMENT OF MEDICAL, SURGICAL AND HOSPITAL
18 BENEFITS SHALL NOT BE BASED ON A PERCENTAGE OF THE DOLLAR AMOUNT OF THE
19 MEDICAL SETTLEMENT AND SHALL BE LIMITED TO HOURLY FEES THAT ARE REASONABLY
20 NECESSARY IN PROCESSING THE MEDICAL PORTION OF THE SETTLEMENT."

21 Amend title to conform

and, as so amended, it do pass

MICHELE REAGAN
Chairman

2198-com

3/4/09

H:jmb

21981h

03/02/2009

5:02 PM

C: mwb